

## REMARKS

### Status of the Claims

Since the amendments submitted on June 9, 2005, have not been entered, the amendments made herein are made to the claims as they stood after entry of the amendments made in the Amendment and Response filed December 2, 2004.

Claims 1-16, 18-21, 23-29, and 40-51 are pending and claims 18, 20-21, 23-29, and 40-51 are under consideration, claims 1-17, 19, 25, and 30-39 having been withdrawn for allegedly being drawn to separate inventions.

After entry of the amendments made herein, claims 18-21, 23, 24, 26-29, 40-46, 48-50, and 52-65 will be pending and under consideration in this application, claims 1-16, 25, 47, and 51 having been cancelled without prejudice to their being presented in a separate application and claims 52-65 having been newly added. New claims 52-56 correspond to previously presented claims 19-21 and 40 but are dependent on claims 41 and/or 48 (rather than claim 18). New claims 52-54, new claims 55 and 56, and new claims 57-65 are supported by the specification (e.g., at: page 2, lines 11-20; page 32, lines 28-33, and page 33, line 32, to page 34, line 3; and page 2, lines 11-20 and page 5, lines 5-7, respectively).

None of the amendments made herein add new matter.

### 35 U.S.C. § 112, second paragraph, rejection

Claims 41 and 48 stand rejected as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention.

As pointed out in the Amendment and Response filed June 9, 2005, in that the last lines of claims 41 and 48 specify species (a "method of killing a target cell" and "an imaging method", respectively) of the embodiment recited in the preamble of both claims ("A method of delivering a radiolabeled immunotoxin to a subject suspected of having cancer"), Applicants respectfully submit that the claims are clear. Nevertheless, in order to expedite prosecution of the instant application, the preambles of the claims have been amended to recite the

embodiments of the last lines and the last lines have been canceled. These amendments add no new matter.

Applicants respectfully submit that, in light of the above amendments, the rejection is moot.

35 U.S.C. § 103(a) rejection

Claims 18, 20, 21, 23, 26-29, 40, 41, 43-54, 48, and 49 stand rejected as allegedly being unpatentable over U.S. Patent No. 5,990,296 (the '296 patent) in view of the U.S. Patent No. 5,332,567 (the '567 patent) and further in view of U.S. Patent Application Publication No. 2002/0095044 (the '044 application) and U.S. Patent No. 5,476,866 (the '866 patent).

From the comments on page 4, line 10, to page 6, line 21, of the Office Action, Applicants understand the Examiner's position to be that the above-listed claims are rendered obvious by the combined teachings of the '296 patent, the '567 patent, the '044 application, and the '866 patent. Applicants disagree with this position. None of the cited references disclose, or remotely suggest, the target molecules now listed in independent claims 18, 41, and 48. Thus, these references do not (singly or in combination) disclose all the limitations of, and do not render obvious, the above-listed claims.

Moreover, even if, for the sake of argument, the combined references were to disclose all the elements of claim(s) 18, 41, and/or 48, Applicants maintain their position that neither the '296 patent nor the '567 patent contain the necessary motivation to one ordinarily skilled in the art to combine their respective disclosures and hence to practice the methods of the rejected claims. Moreover, Applicants respectfully submit that neither of the secondary references (the '044 application and the '866 patent) remedy this defect in the '296 and '567 patents.

Moreover, Applicants draw the Examiner's attention to the surprising and unexpected results described in the Amendment and Response filed June 9, 2005.

In light of the above considerations, Applicants respectfully submit that the rejected claims are not obvious over the cited art and request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

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Page : 12 of 12

Attorney's Docket No.: 09531-023001 / Z01015

CONCLUSION

In summary, for the reasons set forth above, Applicants maintain that the pending claims patentably define the invention. Applicants request that the Examiner reconsider the rejections as set forth in the Office Action, and permit the pending claims to pass to allowance.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicants' undersigned representative can be reached at the telephone number listed below.

Enclosed is a request for an automatic extension of time and a check in payment for the extension of time. Please apply any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 09531-023001.

Respectfully submitted,

Date: \_\_\_\_\_

2/13/06



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